

Initiative Petition - Constitutional Amendment

State of Nevada

Key: Matter in *bold italics* is new; language struck-through is deleted.

The Nevada Minimum Wage Increase Initiative

The People of the State of Nevada do enact as follows:

Article XV, Section 16 of the Nevada Constitution is hereby amended as follows:

A. Each employer shall pay a wage to each employee of not less than the hourly rates set forth in this section. *Upon the effective date of this amendment, the rate shall be nine dollars and twenty-five cents (\$9.25) for every hour worked. This hourly rate shall increase by the amount of seventy-five cents (\$0.75) on January 1, 2020, and by a further seventy-five cents on every succeeding January 1 through and including January 1, 2024, upon which date the hourly rate shall increase to thirteen dollars (\$13.00) for every hour worked. Thereafter, the minimum hourly rate shall be adjusted upwards annually on each January 1 by an amount equal to any increases during the previous year in the federal minimum wage level or, if greater, by the cumulative increase in the cost of living.* ~~The rate shall be five dollars and fifteen cents (\$5.15) per hour worked, if the employer provides health benefits as described herein, or six dollars and fifteen cents (\$6.15) per hour if the employer does not provide such benefits. Offering health benefits within the meaning of this section shall consist of making health insurance available to the employee for the employee and the employee's dependents at a total cost to the employee for premiums of not more than 10 percent of the employee's gross taxable income from the employer. These rates of wages shall be adjusted by the amount of increases in the federal minimum wage over \$5.15 per hour, or, if greater, by the cumulative increase in the cost of living. The cost of living increase shall be measured by the percentage increase as of December 31 in any year over the level as of December 31, 2004 of the Consumer Price Index (All Urban Consumers, U.S. City Average) as published by the Bureau of Labor Statistics, U.S. Department of Labor or the successor index or federal agency. No CPI adjustment for any one-year period may be greater than 3%. The Governor or the State agency designated by the Governor shall publish a bulletin by *December 1* ~~April 1~~ of each year announcing the adjusted rates which shall take effect the following *January 1* ~~July 1~~. Such bulletin will be made available to all employers and to any other person who has filed with the Governor or the designated agency a request to receive such notice but lack of notice shall not excuse noncompliance with this section. An employer shall provide written notification of the rate adjustments to each of its employees and make the necessary payroll adjustments by *December 31* ~~July 1~~ following the publication of the bulletin. Tips or gratuities received by employees shall not be credited as being any part of or offset against the wage rates required by this section.~~

B. *An employee claiming violation of this section has the right to bring an action in the courts of Nevada to enforce the provisions of this section. Such an action may be brought by the employee claiming violation of this section, and may be brought on behalf of all similarly-situated persons pursuant to state and federal rules of civil procedure, as applicable. Claimants shall be entitled to all remedies available under the law or in equity in order to remedy any violation of this section, including but not limited to back pay, interest, exemplary and any other damages, reinstatement, or injunctive relief. An employee who prevails in an action to enforce this section shall be entitled to at least three times his or her back pay as liquidated damages, as well as all other damages described herein, and shall be awarded his or*

her reasonable attorney's fees and costs. An action brought pursuant to this section shall be filed within six years of an alleged violation. ~~The provisions of this section may not be waived by agreement between an individual employee and an employer. All of the provisions of this section, or any part hereof, may be waived in a bona fide collective bargaining agreement, but only if the waiver is explicitly set forth in such agreement in clear and unambiguous terms. Unilateral implementation of terms and conditions of employment by either party to a collective bargaining relationship shall not constitute, or be permitted, as a waiver of all or any part of the provisions of this section. An employer shall not discharge, reduce the compensation of or otherwise discriminate against any employee for using any civil remedies to enforce this section or otherwise asserting his or her rights under this section. An employee claiming violation of this section may bring an action against his or her employer in the courts of this State to enforce the provisions of this section and shall be entitled to all remedies available under the law or in equity appropriate to remedy any violation of this section, including but not limited to back pay, damages, reinstatement or injunctive relief. An employee who prevails in any action to enforce this section shall be awarded his or her reasonable attorney's fees and costs.~~

C. No provision of this section may be waived by agreement between an employee and an employer, including, without limitation, the provisions permitting persons claiming violation of this section to bring actions in the courts of this State and to do so on behalf of similarly-situated persons. All of the provisions of this section, or any part hereof, may be waived in a bona fide collective bargaining agreement, but only if the waiver is explicitly set forth in such agreement in clear and unambiguous terms. Unilateral implementation of terms and conditions of employment by either party to a collective bargaining relationship shall not constitute, or be permitted, as a waiver of all or any part of the provisions of this section. An employer shall not discharge, reduce the compensation of, or otherwise discriminate against any employee for using any civil remedies to enforce this section, or for otherwise asserting his or her rights under this section in any other way.

~~D. E.~~ As used in this section, "employee" means any person who is employed by an employer. ~~as defined herein but does not include an employee who is under eighteen (18) years of age, employed by a nonprofit organization for after school or summer employment or as a trainee for a period not longer than ninety (90) days.~~ "Employer" means any individual, proprietorship, partnership, joint venture, corporation, limited liability company, trust, association, or other entity that may employ individuals or enter into contracts of employment.

~~E. D.~~ If any provision of this section is declared illegal, invalid or inoperative, in whole or in part, by the final decision of any court of competent jurisdiction, the remaining provisions and all portions not declared illegal, invalid or inoperative shall remain in full force or effect, and no such determination shall invalidate the remaining sections or portions of the sections of this section.

DESCRIPTION OF EFFECT

The Nevada Minimum Wage Increase Initiative proposes to raise Nevada's constitutional minimum wage. If enacted, the minimum hourly wage will go up to \$9.25 in late 2018, and will increase by \$0.75 every year until reaching \$13.00 on January 1, 2024. After that, any further minimum wage increases will be tied to increases in the federal minimum wage or to a cost-of-living index increase. The initiative repeals previous provisions of article XV, section 16 of the Nevada Constitution that permitted Nevada employers to pay a lower minimum wage if they

provided health insurance to their employees, and it removes exceptions from minimum wage coverage for Nevada employees. The measure contains provisions for enforcing its terms in Nevada courts, and provides for damages and other remedies if an employer is found to have violated this section.

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AFFIDAVIT OF CIRCULATOR
(TO BE SIGNED BY CIRCULATOR)

STATE OF NEVADA)
COUNTY OF _____)

I _____, (print name), being first duly sworn under penalty of perjury, depose and say: (1) that I reside at _____ (print street, city and state); (2) that I am 18 years of age or older; (3) that I personally circulated this document; (4) that all signatures were affixed in my presence; (5) that the number of signatures affixed thereon is _____; and (6) that each person who signed had an opportunity before signing to read the full text of the act or resolution on which the initiative or referendum is demanded.

Signature of Circulator

Subscribed and sworn to or affirmed before me this

_____ day of _____, _____.

Notary Public or person authorized to administer oath